

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11CV202-3-MU

JAMES CUMMINGS,)	
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
JEFF HUNT, District Attorney for the 29 th)	
Prosecutorial District,)	
)	
Defendant.)	
_____)	

THIS MATTER comes before the Court on initial review of Plaintiff's Complaint under 42 U.S.C. § 1983, filed August 11, 2011. (Doc. No. 1).

A case filed under 42 U.S.C. § 1983 requires a deprivation of a right secured by the Constitution by a person acting under color of state law. Section 1983 applies to violations of federal constitutional rights, as well as certain limited federal statutory rights. See Maine v. Thiboutout, 448 U.S. 1 (1980); see also Gonzaga University v. Doe, 536 U.S. 273, 283 (2002) (holding that a right must be "unambiguously conferred" by a statute to support a Section 1983 claim). A pro se complaint in a proceeding in forma pauperis must be construed liberally. Haines v. Kerner, 404 U.S. 519, 520 (1972). However, Title 28 U.S.C. § 1915A directs the courts to conduct an initial review of civil actions by prisoners seeking relief from a governmental entity or employee. Upon such review, courts must identify cognizable claims or dismiss the complaint, or parts thereof. 28 U.S.C. § 1915A(b)(1).

The Court has conducted an initial review of Plaintiff's Complaint and has determined that the Plaintiff has stated a claim for relief as to Defendant Hunt based on the Supreme Court case of

Skinner v. Switzer, 131 S. Ct. 1289 (2011). The Court will direct that the U.S. Marshal serve process on Defendant Hunt. The Court further directs Defendant Hunt to file an Answer to the claim in Plaintiff's Complaint in accordance with the Rules of Civil Procedure.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

- (1) The Clerk shall issue summons for Defendant Hunt and deliver it forthwith to the U.S. Marshall who will make service of process without additional cost;
- (2) Defendant Hunt shall file an Answer to the claim in Plaintiff's Complaint in accordance with the Rules of Civil Procedure.

SO ORDERED.

Signed: August 17, 2011

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

